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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 16 May 2018 from the Permanent Mission of Canada to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Canada to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit the national report of Canada on the implementation of Security Council resolutions 2270 (2016), 2321 (2016), 2371 (2017), 2375 (2017) and 2397 (2017) (see annex).

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Annex to the note verbale dated 16 May 2018 from the Permanent Mission of Canada to the United Nations addressed to the Chair of the Committee

Report of Canada on the implementation of Security Council resolutions 2270 (2016), 2321 (2016), 2371 (2017), 2375 (2017) and 2397 (2017)

Overview

Canada fully supports the implementation of Security Council sanctions to constrain the proliferation efforts of the Democratic People's Republic of Korea. Canada has incorporated Security Council sanctions measures into national law under the United Nations Act. Since 2011, in addition to Security Council sanctions, Canada has also imposed autonomous sanctions against the Democratic People's Republic of Korea under the Special Economic Measures Act. The 2018 budget of the Government of Canada further allocated resources towards strengthening Canada's sanctions capacity, with the aim of enhancing a whole-of-government sanctions policy, coordination and legal and regulatory work.

Background

Bilateral relations

Canada recognized the Democratic People's Republic of Korea in 2000 and established diplomatic relations in 2001. Relations have been maintained through the Embassy of Canada in Seoul and the Permanent Mission of the Democratic People's Republic of Korea to the United Nations in New York. Canada has never hosted a diplomatic mission for the country; Sweden acts as Canada's protecting power in the Democratic People's Republic of Korea. Currently, there are no cross-accredited diplomatic representatives between Canada and the Democratic People's Republic of Korea.

Canada imposed tight restrictions on bilateral relations in October 2010 in response to the aggressive actions of the Democratic People's Republic of Korea. Specifically, the Government of Canada adopted a controlled engagement policy towards the country, which remains in place. Under that policy, official bilateral contact with the Government of the Democratic People's Republic of Korea is limited to: (a) regional security concerns; (b) the human rights and humanitarian situation in the Democratic People's Republic of Korea; (c) inter-Korean relations; and (d) consular issues.

National legislative authority for sanctions

Canada has enacted sanctions related to the Democratic People's Republic of Korea under both the United Nations Act and the Special Economic Measures Act.

The Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea incorporate the binding decisions of the Security Council contained in resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017) into national law. The Regulations are implemented under the United Nations Act.

Since 2011, in addition to Security Council sanctions, Canada has imposed autonomous sanctions against the Democratic People's Republic of Korea under the

Special Economic Measures Act, to reinforce the message to the Democratic People's Republic of Korea regime that its aggressive actions are unacceptable. The Special Economic Measures (Democratic People's Republic of Korea) Regulations include a ban on all exports to the Democratic People's Republic of Korea; a ban on all imports to Canada from the Democratic People's Republic of Korea; a ban on all new investment in the Democratic People's Republic of Korea; a ban on the provision of financial services to the Democratic People's Republic of Korea and to persons in the Democratic People's Republic of Korea; a bar on the provision of technical data to the Democratic People's Republic of Korea; and a ban on docking and landing in, and transiting through, Canada by ships and aircraft of the Democratic People's Republic of Korea. On 18 October 2017, Canada enacted the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law). To date, Canada has not used this new legislation to autonomously sanction any officials of the Democratic People's Republic of Korea for extrajudicial killings, torture or acts of corruption.

The Royal Canadian Mounted Police and the Canada Border Services Agency enforce the relevant statutes and regulations. Evidence of suspected violations of sanctions legislation is referred to these entities. The Agency facilitates and oversees international travel and trade across Canada's border. The Agency's legislative, regulatory and partnership responsibilities include interdicting illegal goods entering or leaving the country. Canada's cargo inspection regime is also overseen by the Agency.

The Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea (DPRK) allow for the issuance of ministerial certificates to authorize certain prohibited activities if it is established that the requirements for participation in such activities are met, including, when required, the approval of the Committee. The Special Economic Measures (Democratic People's Republic of Korea) Permit Authorization Order, enacted pursuant to subsection 4 (4) of the Special Economic Measures Act, authorizes the Minister for Foreign Affairs to issue, to any person in Canada or any Canadian outside Canada, a permit to carry out a specified activity or transaction, or class of activity or transaction, that is restricted or prohibited pursuant to the Special Economic Measures (Democratic People's Republic of Korea) Regulations.

Regulations enacted under Canada's Export and Import Permits Act also restrict trade with the Democratic People's Republic of Korea. The export or transfer of any goods or technology to countries on the Area Control List is controlled and must be authorized by an export permit issued by the Minister for Foreign Affairs under the authority of the Act; absent such a permit, section 15 (1) of the Act prohibits any person from doing anything in Canada that causes or assists any shipment, trans-shipment, diversion or transfer of any goods or technology included in an export control list to any country on the Area Control List. The Democratic People's Republic of Korea has been listed there since 2010. Applications for permits to export to any country on that list anything other than humanitarian goods, settlers' effects or goods for stabilization or reconstruction activities will normally be denied.

Canada's Proceeds of Crime (Money Laundering) and Terrorist Financing Act may also be employed by the Minister of Finance against prescribed individuals and entities. On 9 December 2017, a Ministerial directive was issued under the Act, in response to concerns regarding money-laundering and terrorist financing threats posed by the Democratic People's Republic of Korea and a call from international partners, through the Financial Action Task Force, to strengthen measures in relation to the Democratic People's Republic of Korea. The directive requires reporting entities to treat all transactions to or from the Democratic People's Republic of Korea as high-risk and take enhanced due diligence to mitigate any risks.

Travel restrictions on individuals and entities of the Democratic People's Republic of Korea designated under relevant Security Council resolutions are implemented pursuant to the application of the Immigration and Refugee Protection Act and its regulations.

With regard to sanctions reporting, Canada's Privacy Act governs the handling of all personal information by federal departments and agencies, namely, the collection, use and disclosure of personal information. Without the consent of the individuals to whom it relates, no personal information under the control of a Canadian government institution may be shared (subject to exclusions set out under section 3 and exemptions set out under section 8 of the Act).

Links to the full text of all legislation described above can be found in the section entitled "Additional notes" below.

Security Council measures as implemented in national legislation

The sections of the Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea (DPRK) outlined below incorporate into Canadian national law prohibitions contained in Security Council resolutions 1718 (2006), 2087 (2013), 1874 (2009), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017).

Movement of goods and provision of technical assistance

Section 3 (2) prohibits the supply or transfer of bulk cash to or from the Democratic People's Republic of Korea.

Sections 6 (1) and 6 (2) prohibit the export to the Democratic People's Republic of Korea of the following items:

- Arms and related materials
- Vehicles, aircraft, vessels and associated transport equipment referred to in codes 86 to 89 of the Harmonized Commodity Description and Coding System developed and maintained by the World Customs Organization
- Luxury goods
- Aviation fuel, including rocket fuel
- Crude oil and refined petroleum products
- Condensates and natural gas liquids
- Base metals and articles of base metal referred to in Harmonized System codes 72 to 83
- Machinery, mechanical appliances and electrical equipment referred to in Harmonized System codes 84 and 85
- Products contributing to the Democratic People's Republic of Korea's weapons programme

Section 6 (3) prohibits the provision, to the Democratic People's Republic of Korea, of technical assistance related to the sale, supply, transfer, manufacture, use or maintenance of arms and related materials or products contributing to the weapons programme of the Democratic People's Republic of Korea.

Sections 7 (1) to 7 (7) prohibit the import from the Democratic People's Republic of Korea of the following items:

- Arms and related materials
- Vessels
- Products contributing to the weapons programme of Democratic People's Republic of Korea
- Salt, sulphur, earths and stone, plastering materials, lime, cement and other materials referred to in Harmonized System code 25
- Coal, iron, iron ore, gold, titanium ore, vanadium ore, rare earth minerals, copper, nickel, silver, zinc, lead and lead ore
- Wood, articles of wood and wood charcoal referred to in Harmonized System code 44
- Statues
- Seafood
- Edible vegetables, roots and tubers referred to in Harmonized System code 7; edible fruit, nuts and peel of citrus fruit or of melons referred to in Harmonized System code 8; and the oil seeds, oleaginous fruits, miscellaneous grains, seeds and fruit, industrial or medicinal plants, straw and fodder referred to in Harmonized System code 12
- Textiles
- Machinery, mechanical appliances and electrical equipment referred to in Harmonized System codes 84 and 85

Section 7 (4) prohibits the acquisition of fishing rights from the Democratic People's Republic of Korea.

Section 7 (8) prohibits the acceptance, from the Democratic People's Republic of Korea, of technical assistance related to the purchase, acquisition, manufacture, use or maintenance of arms and related materials or products contributing to the weapons programme of the Democratic People's Republic of Korea.

Designated individuals and entities and training of nationals of the Democratic People's Republic of Korea

Asset freeze

Section 3 (1) of the Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea (DPRK) imposes an asset freeze and dealings prohibition on the individuals and entities maintained on the list of designated persons pursuant to resolution 1718 (2006).

Travel ban

Travel restrictions are implemented under Canada's Immigration and Refugee Protection Act. Sanctions-related inadmissibilities of foreign nationals, including any persons designated by Security Council resolutions, are described in and implemented under section 35 (1) (c), (d) and (e) of the Act. All visa applications by nationals of the Democratic People's Republic of Korea are assessed on a case-by-case basis to determine whether they meet the eligibility requirements of the Act and whether they are inadmissible under sanctions or any other inadmissibility provisions such as security or criminality. Key security partners are consulted as appropriate.

Training

Section 6 (4) prohibits the teaching or training of nationals of the Democratic People's Republic of Korea in fields such as advanced physics, aerospace engineering and advanced computer simulation, which could contribute to the proliferation-sensitive nuclear activities of the Democratic People's Republic of Korea or the development of nuclear weapons delivery systems.

Furthermore, the Government of Canada reviews student visa applications from individuals of the Democratic People's Republic of Korea to ensure that their field of study does not violate the Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea (DPRK), the Special Economic Measures (Democratic People's Republic of Korea) Regulations or Canada's various obligations under international law.

Maritime and airborne vessels

Sections 8 (1) and (2) prohibit vessels and aircraft from carrying prohibited products and bulk cash to or from the Democratic People's Republic of Korea.

Section 8 (3) prohibits Canadians from trans-shipping, causing to be trans-shipped or permitting to be trans-shipped, to or from vessels flagged by the Democratic People's Republic of Korea, any product destined to or from the Democratic People's Republic of Korea.

Section 9 (1) prohibits the provision of products or services for the operation or maintenance of vessels believed to be carrying prohibited items to or from the Democratic People's Republic of Korea.

Section 9 (2) prohibits the provision of Canadian-flagged vessels or aircraft to the Democratic People's Republic of Korea and the provision of crew services to the Democratic People's Republic of Korea.

Section 9 (3) prohibits Canadians from procuring vessel and aircraft crew services from the Democratic People's Republic of Korea.

Section 9 (4) (a) prohibits Canadians from registering a vessel in the Democratic People's Republic of Korea.

Section 9 (4) (b) prohibits Canadians from obtaining authorization for a vessel to fly the Democratic People's Republic of Korea flag.

Section 9 (4) (c) prohibits Canadians from owning, leasing or operating, directly or indirectly, any vessel flagged by the Democratic People's Republic of Korea.

Section 9 (4) (d) prohibits Canadians from insuring or reinsuring any vessel flagged by the Democratic People's Republic of Korea, any vessel owned, held, controlled or operated, directly or indirectly, by the Democratic People's Republic of Korea or any vessel engaged in the transport or prohibited items.

Section 9 (4) (e) prohibits Canadians from providing any vessel classification, certification or related service for any vessel flagged by the Democratic People's Republic of Korea.

Financial measures

Sections 4 (1) and (2) prohibit the provision or acceptance of financial services in relation to any act or thing prohibited under the Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea (DPRK).

Section 4 (1) also prohibits financial support for trade with the Democratic People's Republic of Korea.

Section 5 (1) prohibits Canadian financial institutions from opening branches in the Democratic People's Republic of Korea.

Section 5 (2) prohibits the opening, maintaining or operating of joint ventures with entities or individuals of the Democratic People's Republic of Korea.

In addition, section 973 of Canada's Bank Act provides for the Minister of Finance to consider Canada's national security, international relations and international legal obligations when considering an application for the opening of a bank in Canada.

There are no branches, subsidiaries or representative offices of banks of the Democratic People's Republic of Korea in Canada. In addition, no Canadian banks have branches or operations in the Democratic People's Republic of Korea or engage in joint ventures or correspondent relationships with banks of the Democratic People's Republic of Korea or hold ownership interests in such banks.

Monitoring of illicit financial transactions, including procurement by designated entities and/or individuals, falls under the mandates of the Royal Canadian Mounted Police, the Canada Border Services Agency and the Office of the Superintendent of Financial Institutions.

Work authorization to the Democratic People's Republic of Korea nationals

Foreign nationals seeking entry to work in Canada must demonstrate that they do not pose a threat to the security of Canada and are not otherwise inadmissible under Canadian immigration law. As with other travellers, all applications by nationals of the Democratic People's Republic of Korea seeking to work temporarily in Canada are assessed on a case-by-case basis to determine eligibility as described above.

Currently, work permits for nationals of the Democratic People's Republic of Korea in Canada have been issued for humanitarian and compassionate reasons, or for reasons associated with in-Canada applications for permanent residence in Canada. Those permits are available to individuals already present in Canada and do not represent a source of overseas temporary foreign workers.

Remittances to the Democratic People's Republic of Korea from Canada are restricted under section 5 of the Special Economic Measures (Democratic People's Republic of Korea) Regulations, which prohibits all provision or acquisition of financial services to or from the Democratic People's Republic of Korea or persons in the Democratic People's Republic of Korea, with the exception of non-commercial remittances of less than $1,000, and which also provides additional financial regulations.

Additional notes

The Government of Canada continues to assess and consult departments and agencies to ensure that authority exists for full compliance with and implementation of all sanctions measures in the most recent Security Council resolutions.

The Government of Canada is also engaging bilaterally and multilaterally with international partners to address the proliferation activities of the Democratic People's Republic of Korea. This includes coordination and consultation within the Group of Seven, undertaking joint démarches and advocacy and providing funds through the Weapons Threat Reduction Program of Global Affairs Canada for projects

to build capacity in key countries in order to implement United Nations sanctions, conduct research into the sanctions evasion techniques used by the Democratic People's Republic of Korea and facilitate reviews of export control policies on proliferation-sensitive goods in key States.

Useful links

For information on all Canadian economic sanctions, please refer to www.international.gc.ca/sanctions/index.aspx?lang=eng.

For an overview of Canadian sanctions related to the Democratic People's Republic of Korea, please refer to www.international.gc.ca/sanctions/countries-pays/korea-coree.aspx?lang=eng.

Information on the controlled engagement policy can be found at www.canadainternational.gc.ca/korea-coree/bilateral_relations_bilaterales/canada-dpr_korea-rpd_coree.aspx?lang=eng.

The Special Economic Measures (Democratic People's Republic of Korea) Regulations can be found at http://laws-lois.justice.gc.ca/eng/regulations/SOR-2011-167/FullText.html.

The Regulations Implementing the United Nations Resolutions on the Democratic People's Republic of Korea (DPRK) can be found at http://laws-lois.justice.gc.ca/eng/regulations/SOR-2006-287/page-1.html. This consolidated version may not include the latest amendments.

The Bank Act can be found at http://laws-lois.justice.gc.ca/eng/acts/B-1.01/FullText.html.

The Export and Import Permits Act can be found at http://laws-lois.justice.gc.ca/eng/acts/E-19/FullText.html.

The Immigration and Refugee Protection Act can be found at http://laws-lois.justice.gc.ca/eng/acts/i-2.5/FullText.html.

The Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law) can be found at http://laws-lois.justice.gc.ca/eng/acts/J-2.3/FullText.html.

The Privacy Act can be found at http://laws-lois.justice.gc.ca/eng/acts/p-21/FullText.html.

The Proceeds of Crime (Money Laundering) and Terrorist Financing Act can be found at http://laws-lois.justice.gc.ca/eng/acts/P-24.501/FullText.html.

The Special Economic Measures (Democratic People's Republic of Korea) Permit Authorization Order can be found at http://laws-lois.justice.gc.ca/eng/regulations/SOR-2011-168/FullText.html.

Guidance relating to the Ministerial directive on the Democratic People's Republic of Korea (DPRK), as well as the directive itself, can be found at www.fintrac-canafe.gc.ca/obligations/dir-dprk-eng.asp.